

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

DAKOTA VAUGHN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. <u>17-CV-86-RAW</u>
	)	(formerly Adair County
ARKANSAS EGG COMPANY, INC.,	)	Case No. CJ-2017-14)
an Arkansas corporation;	)	
VITAL FARMS, INC., a Delaware	)	
corporation; MICHAEL A. COX, JR., an	)	
Individual; RUSSELL DIEZ-CANSECO,	)	
an Individual; and MATT O'HAYER, an	)	
Individual,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendants Arkansas Egg Company, Inc., an Arkansas corporation, Vital Farms, Inc., a Delaware corporation, Michael A. Cox, Jr., Russell Diez-Canseco, and Matt O'Hayer (collectively, "Defendants") hereby effect the removal of the above-referenced action from the District Court of Adair County, Oklahoma, to the United States District Court for the Eastern District of Oklahoma, Muskogee Division, pursuant to 28 U.S.C. §§ 1331, 1332, and 1441. As grounds for this removal, Defendants state as follows:

**I.**

**PLEADINGS, PROCESS, AND ORDERS**

1. On February 13, 2017, Plaintiff Dakota Vaughan filed suit against Defendants in the District Court of Adair County, Oklahoma, Case No. CJ-17-14 (the "State Court Action").
2. Defendants were formally served with Mr. Vaughn's Petition as follows:
  - a. Arkansas Egg Company, Inc.: February 20, 2017;

- b. Vital Farms, Inc.: February 15, 2017;
- c. Michael A. Cox, Jr.: February 20, 2017;
- d. Russell Diez-Canseco: February 24, 2017; and
- e. Matt O'Hayer: Has not been served.

Accordingly, the thirty-day time period for removal has not expired.

- 3. This suit is currently pending in state court.

## II.

### JURISDICTION AND VENUE

4. Removal is proper because Mr. Vaughn's lawsuit involves a federal question claim. 28 U.S.C. §§ 1331, 1441(a). Specifically, Plaintiff has alleged a federal claim under 18 U.S.C. 1961(5), 1962(d) of the Racketeer Influenced and Corrupt Organizations Act ("RICO").

5. Additionally, removal is proper because there is complete diversity between the parties and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(a).

6. Mr. Vaughn alleges that he is an individual residing in Adair County, Oklahoma. *See* Petition ("Pet.") ¶ 1 (attached hereto as **EXHIBIT 1**). Therefore, Mr. Vaughn is a citizen of Oklahoma. *See* 28 U.S.C. § 1332(c)(1).

7. Defendant Arkansas Egg Company, Inc. ("Arkansas Egg") is alleged to be an Arkansas corporation with its principal office in Summers, Arkansas. *See* Pet. ¶ 4. Therefore, Arkansas Egg is a citizen of Arkansas and is a citizen of a state different from that of Mr. Vaughn.

8. Defendant Vital Farms, Inc. ("Vital Farms") is alleged to be a Delaware corporation with its principal office in Austin, Texas. *See* Pet. ¶ 5. Therefore, Vital Farms is a citizen of a state different from that of Mr. Vaughn.

9. Defendants Cox, Diez-Canseco, and O'Hayer are alleged to be citizens of states different from that of Mr. Vaughn. Mr. Cox is alleged to reside in Arkansas and Messrs. Diez-Canseco and O'Hayer are both alleged to reside in Texas. *See* Pet. ¶ 6-8.

10. According to Plaintiff's own allegations, the Parties are, therefore, completely diverse.

11. Mr. Vaughn seeks damages of at least \$1,640,500.00. *See*, e.g., Pet. ¶ 78.

12. Accordingly, the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a).

13. For all these reasons, removal to this judicial district and division is proper under 28 U.S.C. § 1441(a), as this is the district and division embracing the place where the State Court Action is currently pending.

14. To the extent consent to removal is necessary, which it is not since Mr. Vaughn's lawsuit involves a federal-question claim, all Defendants who have been properly joined and served join in or consent to the removal of this case to federal court.

### **III.**

#### **TIMELINESS OF REMOVAL**

15. Removal of this matter has been effectuated within thirty (30) days after Defendants are deemed to have first received a copy of Mr. Vaughn's lawsuit in this matter. Therefore, this removal is timely under 28 U.S.C. § 1446(b).

**IV.**

**SERVICE**

16. Contemporaneously with the filing of this Notice of Removal in the United States District Court for the Eastern District of Oklahoma, written notice of such filing is being served upon Mr. Vaughn's attorney of record. In addition, a copy of the Notice of Removal will be filed with the District Court of Adair County, Oklahoma. Therefore, Defendants satisfied the requirements set out in 28 U.S.C. § 1446(d).

**V.**

**PAYMENT OF FILING FEE**

17. Defendants tendered the proper filing fee.

**VI.**

**OTHER INFORMATION**

18. The attorneys involved in the action being removed are:

(a) **Plaintiff Dakota Vaughn**

William R. Mayo, Esq.  
Mayo Law Offices  
609 S.W. 8th Street, Suite 600  
Bentonville, AR 72712  
Tel: (479) 802-0220  
Fax: (479) 286-1101

(b) **Defendants Vital Farms, Inc., Russell Diez-Canseco, & Matt O'Hayer**

R. Thompson Cooper, OBA No. 15746  
PIGNATO, COOPER, KOLKER & ROBERSON, P.C.  
Robinson Renaissance Building  
119 North Robinson, 11th Floor  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 606-3333  
Facsimile: (405) 606-3334  
Email: [tom@pclaw.org](mailto:tom@pclaw.org)

-and-

Clayton E. Bailey  
Texas State Bar No. 00796151  
(Pro hac vice pending)  
Bailey Brauer PLLC  
Campbell Centre I  
8350 N. Central Expressway, Ste. 206  
Dallas, Texas 75206  
Tel: (214) 360-7433  
Fax: (214) 360-7435  
cbailey@baileybrauer.com

(c) **Defendants Arkansas Egg Company, Inc. and Michael A. Cox, Jr.**

Vicki Bronson, OK Bar #27058  
Conner & Winters, LLP  
4375 N. Vantage Drive, Suite 405  
Fayetteville, AR 72703  
Tel. No. (479) 582-5711  
Fax No. (479) 587-1426  
vbronson@cwlaw.com

19. Mr. Vaughn requested a jury trial.

20. Pursuant to 28 U.S.C. § 1446(a) and LCvR 81.2, a copy of all process, pleadings, and orders filed or served in the State Court Action are attached hereto as **EXHIBITS 1-10**.<sup>1</sup> The state court docket sheet is attached hereto as **EXHIBIT 11**.

WHEREFORE, Defendants Arkansas Egg Company, Inc., an Arkansas corporation, Vital Farms, Inc., a Delaware corporation, Michael A. Cox, Jr., Russell Diez-Canseco, and Matt O'Hayer remove this action from the District Court of Adair County, Oklahoma, to the United States District Court for the Eastern District of Oklahoma, Muskogee Division.

---

<sup>1</sup>The most recent document filed (on March 3, 2017) is Plaintiff's First Amended Petition. As of the time/date of the filing of the present Notice of Removal, the First Amended Petition – which neither adds nor subtracts any parties or theories of recovery – has not been formally served on any Defendant herein.

Respectfully submitted,

s/R. Thompson Cooper

R. Thompson Cooper, OBA No. 15746  
PIGNATO, COOPER, KOLKER &  
ROBERSON, P.C.

Robinson Renaissance Building  
119 North Robinson, 11th Floor  
Oklahoma City, Oklahoma 73102

Telephone: (405) 606-3333

Facsimile: (405) 606-3334

Email: [tom@pclaw.org](mailto:tom@pclaw.org)

-and-

Clayton E. Bailey

(Pro hac vice pending)

Texas State Bar No. 00796151

Bailey Brauer PLLC

Campbell Centre I

8350 N. Central Expressway, Ste. 206

Dallas, Texas 75206

Telephone: (214) 360-7433

Facsimile: (214) 360-7435

**ATTORNEYS FOR VITAL FARMS, INC.,  
RUSSELL DIEZ-CANSECO, AND MATT  
O'HAYER**

s/ Vicki Bronson

Vicki Bronson, OK Bar #27058

Conner & Winters, LLP

4375 N. Vantage Drive, Suite 405

Fayetteville, AR 72703

Tel. No. (479) 582-5711

Fax No. (479) 587-1426

[vbronson@cwlaw.com](mailto:vbronson@cwlaw.com)

**ATTORNEY FOR DEFENDANTS ARKANSAS  
EGG COMPANY AND MICHAEL A. COX, JR.**

**CERTIFICATE OF SERVICE**

By my signature below, I hereby certify that a true and correct copy of this document was served on the following counsel of record on March 7, 2017.

William R. Mayo  
MAYO LAW OFFICES  
609 S.W. 8th Street, Suite 600  
Bentonville, Arkansas 72712

***VIA CERTIFIED MAIL***

Pursuant to 28 U.S.C. §1446(d), a copy of the foregoing notice has also been sent to:

Ms. Nichole Cooper  
Adair County Court Clerk  
220 West Division Street  
Post Office Box 426  
Stillwell, Oklahoma 74960

***VIA CERTIFIED MAIL***

*s/R. Thompson Cooper*  
For the Firm